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29 *Attorneys for Plaintiffs Aristocrat Technologies, Inc. and*  
30 *Aristocrat Technologies Australia Pty Ltd.*

31 **UNITED STATES DISTRICT COURT**  
32 **DISTRICT OF NEVADA**

33 ARISTOCRAT TECHNOLOGIES, INC. and  
34 ARISTOCRAT TECHNOLOGIES  
35 AUSTRALIA PTY LTD.,

36 Plaintiffs,

37 v.

38 LIGHT & WONDER, INC., LNW GAMING,  
39 INC., and SCIPLAY CORPORATION,

40 Defendants.

41 Civil Case No. 2:24-cv-00382-GMN-MDC

42 **JOINT MOTION FOR ENTRY OF**  
43 **STIPULATED PROTECTIVE ORDER**

1 Pursuant to Federal Rule of Civil Procedure 26(c), Plaintiffs Aristocrat Technologies, Inc.  
2 and Aristocrat Technologies Australia Pty Ltd. (“Aristocrat”) and Defendants Light & Wonder,  
3 Inc., LNW Gaming, Inc., and SciPlay Corporation (“L&W,” and together with Aristocrat, the  
4 “Parties”), by and through their respective counsel, hereby stipulate and agree that discovery in  
5 the above-captioned action (“Action”) may involve the disclosure of certain documents, things,  
6 and information that are alleged to constitute or contain trade secrets, financial records, or other  
7 proprietary and confidential research, development, or commercial information within the  
8 meaning of Rule 26(c), and that must be protected in order to preserve legitimate business interests,  
9 and accordingly move for entry of a Stipulated Protective Order and Source Code Addendum  
10 (together, “Protective Order”). Good cause exists for the entry of this Protective Order pursuant to  
11 Rule 26(c) because it protects against improper disclosure or use of such trade secrets, financial  
12 records, and proprietary and confidential information produced or disclosed in this case. The  
13 Parties agree to comply with the terms and conditions of this Protective Order pending approval  
14 by the Court.

15 The Parties have worked diligently to reach agreement on the terms of the Protective Order,  
16 but are at impasse on the following issue, for which the Parties respectfully ask the Court’s  
17 guidance:

18 **Removal of Confidentiality Designations Before Trial**

19 L&W proposes including the following language in paragraph 5 of the Protective Order:  
20 “Any confidentiality designations made pursuant to this Protective Order shall be removed before  
21 any Discovery Material is shown to the jury or to any witnesses at trial. Trial exhibits shall not  
22 include any Protective Order marking.” Aristocrat opposes the inclusion of this language. A  
23 version of the Protective Order without this additional language in paragraph 5—*i.e.*, Aristocrat’s  
24 proposal—is attached as Exhibit A. A version of the Protective Order with the additional  
25 language—*i.e.*, L&W’s proposal—is attached as Exhibit B. The Source Code Addendum is  
26 uncontested, and attached as Exhibit C.

27 **Aristocrat’s position:** L&W’s proposed language—which would require the blanket  
28

1 removal of confidentiality designations from all trial exhibits regardless of their sensitivity and  
2 even if there is no dispute over their confidentiality—is inappropriate. This a trade secret case that  
3 involves some of Aristocrat’s most highly sensitive information. The removal of confidentiality  
4 designations from exhibits increases the chances that those exhibits, or the information within  
5 them, will be inadvertently disclosed—particularly given that L&W does not propose any  
6 substitute mechanism for identifying confidential exhibits. Requiring the blanket removal of  
7 designations at this stage of the case would also be premature, as the parties do not know what  
8 exhibits will be used and whether there will be any dispute over the confidentiality of those exhibits  
9 or the reasonableness of Aristocrat’s security measures. It would also preempt other, less harmful  
10 solutions to address L&W’s concern, such as instructions that the jury must disregard designations  
11 in making any confidential findings. This issue is best addressed by a motion *in limine* concerning  
12 specific exhibits closer to trial.

13 L&W’s position: Litigation-created confidentiality markings on exhibits stating “HIGHLY  
14 CONFIDENTIAL—ATTORNEYS’ EYES ONLY” and “CONFIDENTIAL” should not be  
15 published to the jury as they create a false impression of confidentiality to L&W’s prejudice. At  
16 trial, Aristocrat has the burden to prove it took reasonable measures to keep its claimed trade secret  
17 information secret. 18 U.S.C. § 1839(3)(A). Marking documents confidential is the most common  
18 example of proof of reasonable security measures. This is why inclusion of litigation-based  
19 confidentiality markings (“HIGHLY CONFIDENTIAL”) prejudices the defendants. The  
20 litigation-created confidentiality markings unfairly suggest to the jury that the documents are in  
21 fact confidential without Aristocrat ever proving the issue. The litigation-created confidentiality  
22 markings are likely to unfairly influence the jury on a contested issue that Aristocrat must prove.  
23 A small fraction of discovery documents become trial exhibits and a vendor can easily prepare the  
24 trial exhibits without the litigation-created confidentiality markings. L&W raises the issue now to  
25 avoid a claim at the motion in limine or exhibit exchange stage that “it is too late”, “there is no  
26 time to do that” or “exhibits are already prepared”. Trial exhibits are handled by the trial teams  
27 who are very capable of securing the safety of the trial exhibits. L&W requests that the Court  
28

1 allow the additional language in the parties' protective order to require removal of litigation-  
2 created confidentiality markings before exhibits are published to the jury or trial witnesses.  
3

4 IT IS SO STIPULATED this 17th day of May, 2024.  
5

6 For Plaintiffs Aristocrat Technologies, Inc. and Aristocrat Technologies Australia Pty Ltd. For Defendants Light & Wonder, Inc., LNW  
7 Gaming, Inc., and SciPlay Corporation

8 /s/ Jason D. Smith

8 /s/ Philip R. Erwin

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**INDEX OF EXHIBITS**

<b>Description</b>	<b>Exhibit</b>
Aristocrat's Proposed Protective Order	A
L&W's Proposed Protective Order	B
Uncontested Source Code Addendum	C

**CERTIFICATE OF SERVICE**

I hereby certify that on this 17th day of May 2024, a true and correct copy of the foregoing

**JOINT MOTION FOR ENTRY OF STIPULATED PROTECTIVE ORDER** was electronically filed and served upon the parties registered for service with the Court's Case Management and Electronic Case Filing (CM/ECF) system:

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